

**UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA**

STEPHEN W. CARLSON,

Plaintiff,

v.

ORDER

Civil File No. 12-2780 (MJD/TNL)

MARK RITCHIE, Minnesota
Secretary of State in his official capacity,
and BERT BLACK, Minnesota Secretary
of State legal adviser in his official capacity,

Defendants.

This matter is before the Court on Plaintiff Stephen W. Carlson's Motion for Temporary Restraining Order to Direct Mark Ritchie to Release to Plaintiff E-mail Addresses of Registered Voters in 4th Cong. Dist. [Docket No. 6] Plaintiff has not yet served Defendants with the Summons and Complaint; nor has he served the current motion.

Federal Rule of Civil Procedure 65(b) allows injunctive relief without notice only if certain procedural requirements are met by the moving party.

Specifically:

(1) Issuing Without Notice. The court may issue a temporary restraining order without written or oral notice to the adverse party or its attorney only if:

(A) specific facts in an affidavit or a verified complaint clearly show that immediate and irreparable injury, loss, or damage will result to the movant before the adverse party can be heard in opposition; and

(B) the movant's attorney certifies in writing any efforts made to give notice and the reasons why it should not be required.

Fed. R. Civ. P. 65(b)(1). "The stringent restrictions imposed . . . by Rule 65 on the availability of ex parte temporary restraining orders reflect the fact that our entire jurisprudence runs counter to the notion of court action taken before reasonable notice and an opportunity to be heard has been granted both sides of a dispute." Granny Goose Foods, Inc. v. Bhd. of Teamsters & Auto Truck Drivers Local No. 70 of Alameda Cnty., 415 U.S. 423, 438–39 (1974) (footnote omitted).

Here, Plaintiff has not filed proof of service on Defendants. Nor has he filed an affidavit averring that they have already received notice of this lawsuit or the documents filed. Plaintiff has not filed a verified complaint. The "affidavit" filed by Plaintiff is not notarized. Nor does it state that it is provided under penalty of perjury. See 28 U.S.C. § 1746. The "affidavit" does not provide

valid reasons why notice to Defendants should not be required. Therefore, because the current motion does not conform to Rule 65(b), it is denied.

Accordingly, based upon the files, records, and proceedings herein, **IT IS**

HEREBY ORDERED:

Plaintiff Stephen W. Carlson's Motion for Temporary Restraining Order to Direct Mark Ritchie to Release to Plaintiff E-mail Addresses of Registered Voters in 4th Cong. Dist. [Docket No. 6] is **DENIED**.

Dated: November 2, 2012

s/ Michael J. Davis

Michael J. Davis

Chief Judge

United States District Court